

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2019 AUG 20 12 15 PM 19-CVS-11663

_____,
individually and as the Natural Parents
and Legal Guardians of _____, a Minor,

Plaintiffs,

v.

CHARLOTTE-MECKLENBURG
SCHOOLS, CHARLOTTE-
MECKLENBURG BOARD OF
EDUCATION, PLAYSPANISH, LLC,
and RICARDO L. MATA,

Defendants.

COMPLAINT

Plaintiffs _____, individually and as the Natural Parents and Legal Guardians of _____ a Minor, complaining of Defendants Charlotte-Mecklenburg Schools, Charlotte-Mecklenburg Board of Education, PlaySpanish, LLC, and Ricardo Mata, allege and say as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiffs _____ (hereinafter "Plaintiffs") are adult citizens and residents of Mecklenburg County, North Carolina. Plaintiffs are the natural parents and legal guardians of _____, a minor. _____ is presently eight years old. Plaintiffs are prosecuting this action individually and in their representative capacity on behalf of _____

2. Defendant Charlotte-Mecklenburg Schools ("CMS") is a governmental entity organized and existing under the laws of the State of North Carolina, with its principal place of operation in Mecklenburg County, North Carolina. All allegations set forth herein against CMS also refer to and include the principals, agents, employees and servants of CMS, either directly or vicariously, under the principles of corporate liability, apparent authority, agency, ostensible agency, or *respondeat superior*.

3. Defendant Charlotte-Mecklenburg Board of Education (the "Board") is a local board of education organized and existing under the laws of the State of North Carolina, with its principal place of operation in Mecklenburg County, North Carolina. All allegations set forth herein against the Board also refer to and include the principals, agents, employees and servants of the Board, either directly or vicariously, under the principles of corporate liability, apparent authority, agency, ostensible agency, or *respondeat superior*.

4. Defendant PlaySpanish, LLC, (“PlaySpanish”) is a North Carolina limited liability company with its principal office in Charlotte, Mecklenburg County, North Carolina.

5. Defendant Ricardo L. Mata (“Mata”) is an adult resident of Mecklenburg County, North Carolina. Upon information and belief, Mata is in the United States illegally.

6. Upon information and belief, CMS and the Board have waived governmental immunity that might otherwise apply to the claims in this case. Upon information and belief, CMS and the Board have purchased liability insurance, either by contract with an insurance company or other qualified insurer as determined by the Department of Insurance, or by participation in an insurance risk pool, which provides coverage – including coverage to its officers and employees – for the claims raised in this action. CMS and the Board have thereby waived their sovereign or governmental immunity on these claims. Furthermore, and upon information and belief, CMS and the Board have waived sovereign immunity through the purchase of one or more policies of liability insurance pursuant to N.C.G.S. § 115C-42 and/or by participating in a local government risk pool pursuant to N.C.G.S. § 58-23-5.

7. The Superior Court of Mecklenburg County, North Carolina has jurisdiction over the parties and subject matter of this action.

8. Venue is proper in Mecklenburg County because this is where the cause of action alleged in this Complaint arose.

9. This is an action to recover substantial damages from the Defendants for their extreme and gross negligence, negligence, premises liability, and intentional conduct which resulted in Plaintiffs’ minor child being sexually abused by Ricardo L. Mata, a known sexual predator, while he acted as a CMS registered volunteer and approved vendor.

10. The amount in controversy exceeds \$25,000.

FACTUAL ALLEGATIONS

CMS and the Board Overlook Mata’s Troubling History

11. PlaySpanish is a for-profit company providing Spanish language teaching to students in Charlotte. PlaySpanish is owned and operated by Mata and his wife. PlaySpanish claims to have worked with over 15,000 children in the Charlotte area from 1997 through 2018.

12. From 1998 to 2017, Mata, through PlaySpanish, ran afterschool Spanish classes at approximately fifteen (15) CMS elementary schools. PlaySpanish largely operated and was permitted to use CMS and the Board’s resources through the Board’s Community Use in Schools (“CUS”) program¹, a program designed to encourage the use of school resources by approved individuals and organizations.

¹ The Board, however, specifically “does not encourage the use of school facilities by commercial enterprises,” such as PlaySpanish, but instead gives preference to non-profit

13. In the event a for-profit entity, like PlaySpanish, is permitted to use school facilities, Board policy requires all such organizations to have an approved CUS contract in place prior to being allowed on school property. Additionally, all adults interacting with CMS children (including through a CUS contract) are required to formally register as volunteers. See CMS Regulation on Community Use of Facilities, KF-R.

14. During all applicable time periods, the Board required all volunteers to be “screened” as part of the registration process. Screening methods “include but are not limited to: verification of date of birth from Drivers License; Interviews; Reference Checks; Record Checks [criminal history, driving history (for field trips), credit bureau (for bookkeeping, fundraising or financial positions)]; Fingerprinting; Orientations; Attendance at district/other training.” While all of the above methods may not be used to screen every applicant, every prospective volunteer must authorize CMS and/or the Board to conduct a criminal background check. See CMS Regulation on Volunteer Screening Procedures, IJOCA-R.

15. The Board and CMS informs and represents to parents that all volunteers must go through a background check and that all vendors, including after school programs, are screened by CMS and/or the Board.

16. Upon information and belief, the Board and CMS intend that families rely on these background checks and screening procedures to ensure that only appropriate individuals are allowed to use school facilities and to be around their children.

17. Upon information and belief, neither the Board nor CMS performed a background check on Mata prior to allowing him access to school facilities and to CMS students.

18. Additionally, despite their own requirements to the contrary, the Board and CMS allowed PlaySpanish to use their facilities and resources for after school classes, including having unsupervised access to CMS students, without having a CUS contract in place. Instead, Mata, on behalf of PlaySpanish, was permitted into schools “by permission of individual principals for years.”

19. Not until 2011 did CMS and/or the Board require PlaySpanish to have a CUS contract in place. For each year, CMS and/or the Board waived all associated fees for PlaySpanish. CMS and/or the Board rationalized not charging any fees to PlaySpanish because it operated immediately after school, “when the schools were already open, and therefore did not cost the district any expense.”

20. For the 2011 school year, the then-Associate Superintendent for Auxillary Services estimated the “value of the waived fees [to PlaySpanish to be] about \$35,000.”

organizations and other qualifying groups when they request the use of school facilities. See CMS Regulation on Community Use of Facilities, KF-R, II(F).

21. In October 2013, CMS and the Board received credible information that Mata sexually molested a child while on the grounds of Matthews Elementary School during a PlaySpanish class.

22. Indeed, CMS and the Board were aware as early as October 2013 that “[s]everal children and parents have expressed concern over his affectionate touching and comments.” See Email from CMSPD to State of Georgia Records, October 30, 2013, at 11:33 a.m.

23. As of October 2013, Mata was operating PlaySpanish in at least 11 CMS schools.

24. CMS and the Board, through its own police division, the Charlotte Mecklenburg Schools Police Department (“CMSPD”), requested a background check on Mata.

25. The background check revealed that:

- a. In 2009, the Charlotte-Mecklenburg Police Department opened an investigation into Mata for “forcible fondling” of a six year old girl at a private school in the Charlotte area. CMS and the Board were provided graphic details of the assault, including that it occurred at a lunch table and Mata’s hands were observed by a third person to be touching the young girl’s private area. The private school did not allow Mata back on school property following the alleged assault.
- b. In 1999, Mata was charged with assault on a female and communicating threats. Mata was convicted of these offenses in Mecklenburg County District Court. Mata then appealed the offenses and the charges were ultimately dismissed.
- c. On or about February 17, 1993, Mata was “arrested in Greensboro (NC) on a Fugitive (felony) From Justice-Georgia warrant...[and] was extradited back or waived extradition on or about April 28, 1993.” See Email from CMSPD on October 28, 2013, to State of Georgia Records. CMSPD informed the State of Georgia that “Mr. Mata is being investigated for possible inappropriate touching of a child (forcible fondling) while conducting an after school language program in Charlotte-Mecklenburg Schools.” Id. Accordingly, CMSPD contacted the State of Georgia “to determine what Mr. Mata was arrested for...” Id. Upon information and belief, no response was received from the above inquiry. On October 30, 2013, CMSPD again contacted the State of Georgia, for more information, citing the concerns of students and parents regarding Mata’s behavior. See Email from CMSPD to State of Georgia Records. Upon information and belief, no response was ever received and CMS and the Board did not further investigate this felony charge.

26. On Friday, November 1, 2013, CMS' then Associate Superintendent for Auxiliary Services met with Mata and informed Mata of the allegations of sexual assault.

27. The following Sunday, November 3, 2013, Mata emailed CMS claiming that the allegations were untrue, and that he was "sad" to have to "limit the contact and close interaction with our students," as "human warmth and love – expressed in reasonable, acceptable ways – is part of what we bring to our classrooms . . ." See Email from Mata to CMS' then Associate Superintendent for Auxiliary services, at 8:34 p.m.

28. Upon information and belief, CMS, the Board, and CMSPD stopped their investigation of Mata following the November 1, 2013 meeting and Mata's November 3, 2013 email.

29. Upon information and belief, CMS and the Board failed to notify CMS parents of the alarming results of their background check and the allegations against Mata.

30. Upon information and belief, CMS and the Board failed to notify individual school principals of the alarming results of their background check and the allegations against Mata, despite the fact that the individual principals have to approve the CUS contract and Mata's presence on school property.

31. Despite Mata's background, including the incomplete check on Mata's felony warrant in Georgia and the unresolved recent allegations of sexual abuse, CMS and the Board held Mata out to the public as safe and an approved adult volunteer for CMS schools. Later, CMS declared that Mata "passed a background check."

32. Despite Mata's background and the credible allegations that he had sexually assaulted students on school property, CMS and the Board continued to permit Mata to have nearly unrestricted access to school facilities and young, vulnerable CMS students by approving a CUS contract for PlaySpanish in 2014, 2015 and 2016. CMS and the Board waived all fees associated with PlaySpanish's use of school properties during each year.

33. Further, CMS and Board allowed PlaySpanish and Mata to use school resources and facilities to market its Spanish classes with their express and/or implied permission.

34. At the beginning of each school year, CMS and the Board allowed Mata and PlaySpanish to advertise their business on school property, at various school functions, and even set up a table during lunch hours.

35. CMS and the Board facilitated and encouraged participation in PlaySpanish by having its employees transition enrolled students to the PlaySpanish classroom at the end of the normal school day, where Mata was left unsupervised with children.

36. Upon information and belief, the then-Superintendent of CMS, as well as other senior officers and administrators responsible for managing and supervising CMS, including its

afterschool programs, volunteers, and vendors, participated in or condoned the decision to permit Mata to continue to have access to school facilities and CMS students.

37. Upon information and belief, members of the Board and/or officers or administrators of the Board also condoned or participated in the decision to permit Mata to continue to have access to school facilities and CMS students.

38. Not only did CMS and the Board allow Mata and PlaySpanish to continue to use school resources free of charge under a CUS contract despite the allegations and results of its background check, CMS and/or the Board paid PlaySpanish over \$16,000 under a separate vendor contract for work performed in its schools.

39. In the fall of 2017, PlaySpanish enrolled CMS students for the upcoming school year, despite not having a CUS contract in place. By October, PlaySpanish was still not approved in all schools. Mata, therefore, posted an update on Facebook concerning CMS and the Board approving PlaySpanish for seven CMS elementary schools, stating “bigots and bureaucrats [] don’t want us around.” See PlaySpanish, LLC’s Facebook post on or about October 17, 2017.

40. Mata also contacted several CMS principals and staff and was hostile with them. Indeed, CMS’ Executive Director for Facility Planning and Management told the Manager of the Community Use of Schools program not to “meet with him individually” and to copy others on all emails with him. See Email dated October 18, 2017 at 5:58 a.m.

41. CMS also had concerns about Mata’s truthfulness in some of his communications to CMS staff.

42. At the same time, parents expressed concerns about Mata and PlaySpanish to CMS and the Board over PlaySpanish’s delayed start, Mata’s public comments, and their individual interactions with him. At least one CMS administrator agreed with a concerned parent that he would have trouble “trusting him with my kids.” See Email dated October 19, 2017 sent at 12:40 p.m. Neither CMS nor the Board informed the Plaintiffs of these positions.

43. The Principal and PTA of Eastover Elementary School directly asked CMS whether PlaySpanish would be approved as a CMS vendor in light of Mata’s “shocking” public comments, as they relied on CMS and the Board’s “screening” process.

44. Despite concerns over Mata, the Board, CMS, and various elementary school principals (who were not provided with complete information regarding Mata) approved PlaySpanish for the fall of 2017 because PlaySpanish refused to give refunds to parents who previously paid for PlaySpanish in those schools for which PlaySpanish had not yet been approved.

45. On October 23, 2017, CMS and the Board wrote a letter to the parents of all children enrolled in PlaySpanish:

“PlaySpanish has been operating in your school free of charge, but due to a change in the governing Board of Education policy regulations, this organization will be subject to rental space fees effective January 1st 2018.

PlaySpanish is aware that they will be subject of payment [sic] of rental fees for any contract after January 1st. We are unsure at this point in time if PlaySpanish will apply for a new contract subject to these fees.”

46. The Board and CMS did not mention that Mata had been the subject of several complaints of sexual abuse of children, that Mata had been charged with related crimes, that Mata had been extradited to Georgia but that they had not bothered to determine what the charges were, that Mata had displayed concerning and erratic behavior towards CMS and the Board, or that many schools were not allowing PlaySpanish back.

47. At the same time that CMS and the Board sent the above letter, there was internal debate concerning whether to “ban him as a CMS vendor.” See Email between CMS staff and CMSPD on October 31, 2017, at 3:19 p.m.

48. On November 3, 2017, following an additional investigation by CMSPD into Mata, CMSPD, again, sent CMS the results of its prior background check, including the 2009 allegations of Indecent Liberties with a Child, the 1999 arrest for Assault on a Female and Communicating threats, and the 1993 arrest in Guilford county for a felony out of state fugitive warrant (again, not providing substantive information on the nature of the charge or the disposition). CMSPD informed CMS’ procurement department that “As for removing him from the vendor list that will have to be a decision your office will have to make.” See Email between CMSPD and CMS’ Procurement Services department on November 3, 2017, at 2:36 p.m.

Mata Sexually Assaults █████ on School Grounds

49. From 2016 – 2018, Plaintiffs’ minor child, █████, was a kindergarten and first grade student at Eastover Elementary School (“Eastover”).

50. Eastover Elementary School is part of the CMS system and is owned and operated by the Board.

51. Relying on CMS and the Board that Eastover was a “Safe Place” and that PlaySpanish and Mata had been properly screened by CMS and the Board, Plaintiffs enrolled their minor child in PlaySpanish during the 2016-2017 school year and again during the 2017-2018 school year.

52. In 2016 and 2017, while a kindergarten and first grade student, █████ was sexually assaulted by Mata multiple times while attending the PlaySpanish afterschool program at Eastover Elementary School. Among other abuse, Mata removed █████’s clothes and underwear and performed oral sex on her, while on school property.

53. Mata used “lock-down drills” as a pretext to separate young students so that he had the time and opportunity to sexually assault children. During these “lock-down drills,” Mata would turn off the lights, instruct students to hide in various locations and to not say anything.

54. CMS and the Board were aware that Mata frequently ran “lock-down drills” during the PlaySpanish afterschool program.

55. CMS and the Board never questioned why Mata was running “lock-down drills,” never instructed him that it was not the role of a CUS volunteer Spanish program or paid Spanish vendor to run such drills, nor did they ever inquire what, if any, training he had to perform such drills.

56. Mata repeatedly sexually assaulted [REDACTED] while she was isolated from other students and teachers during the lock-down drills at Eastover Elementary School.

57. [REDACTED] was only six and seven at the time Mata sexually assaulted her.

58. Following Mata’s arrest for sexually assaulting [REDACTED], CMS’s then-Superintendent sent a letter to all CMS students and families, stating that Mata was a registered CMS volunteer, but falsely claiming that Mata had passed the required background check.

59. Plaintiffs [REDACTED] have incurred medical and other expenses on behalf of their minor daughter.

FIRST CAUSE OF ACTION

[PHYSICAL AND SEXUAL ASSAULT – Defendants Mata and PlaySpanish]

60. The preceding paragraphs are realleged and incorporated herein as if fully set forth.

61. Mata threatened [REDACTED] with physical harm by an intentional act or display of force.

62. Specifically, Mata made a show of force in that while [REDACTED], a young child, was a student of his in the PlaySpanish program, he forcibly undressed her and made unwanted sexual contact with her.

63. Mata’s actions caused [REDACTED] to have a reasonable apprehension that further harmful and offensive contact to her person was imminent.

64. Mata’s actions described herein are imputed to PlaySpanish under the doctrine of *respondeat superior* because at all pertinent times, Mata was acting in the course and scope of his employment with PlaySpanish.

65. As a direct and proximate result of Mata’s assault, Plaintiffs suffered damages in an amount to be proven at trial, for which Mata and PlaySpanish are jointly and severally liable.

SECOND CAUSE OF ACTION
[PHYSICAL AND SEXUAL BATTERY – Defendants Mata and PlaySpanish]

66. The preceding paragraphs are realleged and incorporated herein as if fully set forth.

67. Mata intentionally caused unwanted bodily contact with [REDACTED]

68. Specifically, as alleged herein, Mata sexually molested [REDACTED] at Eastover Elementary School by forcibly removing her clothing and underwear and performing oral sex on her.

69. The bodily contact described herein actually offended and harmed [REDACTED].

70. The bodily contact described herein occurred without [REDACTED]'s consent.

71. Mata's actions described herein are imputed to PlaySpanish under the doctrine of *respondeat superior* because at all pertinent times, Mata was acting in the course and scope of his employment with PlaySpanish.

72. As a direct and proximate result of Mata's assault, Plaintiffs suffered damages in an amount to be determined at trial, for which Mata and PlaySpanish are jointly and severally liable.

THIRD CAUSE OF ACTION
[INTENTIONAL/RECKLESS INFLECTION OF EMOTIONAL DISTRESS – All Defendants]

73. The preceding paragraphs are realleged and incorporated herein as if fully set forth.

74. Defendants' conduct was extreme and outrageous in that it exceeded all bounds usually tolerated by decent society.

75. Specifically, as alleged herein, Mata forced unwanted sexual contact on [REDACTED], a young child, to gratify his sexual desires.

76. Mata's conduct was intended to cause, or was recklessly indifferent to the likelihood that it would cause severe emotional distress to Plaintiffs.

77. Mata's actions described herein are imputed to PlaySpanish under the doctrine of *respondeat superior* because at all pertinent times, Mata was acting in the course and scope of his employment with PlaySpanish.

78. As alleged above, CMS and the Board knowingly allowed (and paid) Mata to be on CMS property and to have access to CMS students despite allegations and charges that he had sexually assaulted minors.

79. CMS and the Board allowing Mata and PlaySpanish free, unfettered access to CMS property and students, in the absence of an adequate background check and despite known allegations and concerns about Mata's inappropriate and criminal conduct, was recklessly indifferent to the likelihood that it would lead to and cause severe emotional distress to Plaintiffs.

80. Defendants' conduct in fact caused severe emotional distress to Plaintiffs.

81. As a direct and proximate result of Defendants' intentional or reckless infliction of severe emotional distress, Plaintiffs suffered damages in an amount to be determined at trial, for which all Defendants are jointly and severally liable.

FOURTH CAUSE OF ACTION
[NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS –
All Defendants]

82. The preceding paragraphs are realleged and incorporated herein as if fully set forth.

83. Defendants knew or should have known, and it was reasonably foreseeable that their conduct would cause Plaintiffs severe emotional distress.

84. Defendants' actions and inactions were negligent and caused severe emotional distress to Plaintiffs.

85. Mata's actions described herein are imputed to PlaySpanish under the doctrine of *respondeat superior* because at all pertinent times, Mata was acting in the course and scope of his employment with PlaySpanish.

86. As alleged above, it was reasonably foreseeable that CMS and the Board's numerous failures and breaches of the standard of care would result in extreme harm to the Plaintiffs.

87. CMS and the Board allowing Mata and PlaySpanish free, unfettered access to CMS property and students, in the absence of an adequate background check and despite known allegations and concerns about Mata's inappropriate and criminal conduct, fell below the applicable standard of care and was reasonably likely to lead to and cause severe emotional distress to Plaintiffs.

88. As a direct and proximate result of Defendants' actions and inactions, negligently inflicting emotional distress upon Plaintiffs, Plaintiffs suffered damages in an amount to be established at trial, for which Defendants are jointly and severally liable.

FIFTH CAUSE OF ACTION
[NEGLIGENCE / GROSS NEGLIGENCE – All Defendants]

89. The preceding paragraphs are realleged and incorporated herein as if fully set forth.

90. At all pertinent times, Defendants owed Plaintiffs a duty of reasonable care to follow appropriate standards of care in providing care and supervision for [REDACTED]

91. Using his position as a registered and approved CMS volunteer and vendor, and as a result of PlaySpanish's CUS contract with the Board, Mata sexually molested [REDACTED]

92. Defendants breached the standard of care they owed to Plaintiffs by, among other things:

- a. Failing to take appropriate steps to care for the safety and well-being of [REDACTED];
- b. Approving PlaySpanish and Mata's CUS and vendor contracts;
- c. Allowing Mata on school property;
- d. Allowing Mata unsupervised access to [REDACTED];
- e. Allowing Mata to run "lock-down drills;"
- f. Failing to conduct a reasonable background check of Mata;
- g. Failing to appropriately supervise Mata;
- h. Failing to warn Plaintiffs of Mata's history and potential threat;
- i. Failing to notify school principals that Mata posed a danger to students;
- j. Exerting unreasonable and inappropriate physical force upon [REDACTED] that was reasonably likely to cause injury to [REDACTED];
- k. Sexually assaulting [REDACTED];
- l. Acting with reckless disregard for [REDACTED]'s safety; and
- m. Failing to provide a safe environment for [REDACTED]

93. Defendants further breached the standard of care they owed Plaintiffs by violating N.C.G.S. §115C-332, by failing to reasonably review Mata's criminal history and by failing to use information regarding Mata's criminal history and illegal status to make a reasonable decision about his employment as an independent contractor.

94. Defendants' actions and inactions were grossly negligent and/or were committed with reckless disregard for Plaintiff's rights.

95. Defendants' negligence and gross negligence was a direct and proximate cause of [REDACTED]'s sexual abuse and Plaintiffs' damages.

96. As alleged herein, Defendants' breaches of their duties directly and proximately led to the damages suffered by Plaintiffs in an amount to be determined at trial, for which Defendants are jointly and severally liable.

SIXTH CAUSE OF ACTION

[PREMISES LIABILITY – Defendants CMS, the Board, and PlaySpanish]

97. The preceding paragraphs are realleged and incorporated herein as if fully set forth.

98. [REDACTED] was a lawful visitor at Eastover Elementary School during the times she was sexually assaulted.

99. Defendants CMS, the Board, and PlaySpanish owed a legal duty to [REDACTED] to maintain the premises of Eastover Elementary School in a reasonably safe condition and protect [REDACTED] from the foreseeable activities of Mata.

100. Defendants CMS, the Board, and PlaySpanish knew or should have known that Mata presented a danger to [REDACTED] and other students.

101. Defendants CMS, the Board, and PlaySpanish breached their legal duties in that they:

- a. Failed to use reasonable care in the maintenance of the premises for the protection of their visitors, including [REDACTED], for instance, in failing to take any reasonable precautions to prevent Mata's conduct that they knew or should have known was occurring;
- b. Failed to ensure that proper safety precautions and preventative measures were in place to prevent an injury to a lawful visitor such as [REDACTED], such as failing to reasonably monitor Mata;
- c. Failed to properly assess, evaluate, or implement necessary safeguards on their premises to protect [REDACTED] from harm, such as failing to investigate Mata's actions when they knew or should have known that he was inappropriately touching children;
- d. Failed to have an appropriate system in place to alert Plaintiffs of Mata's history or potential threat;

- e. Failed to revoke Mata's access to Eastover Elementary School when they knew or should have known of Mata's history or potential threat; and
- f. Were negligent in such other ways to be proven through discovery and trial.

102. As alleged herein, Defendants CMS, the Board, and PlaySpanish's breaches of their duties directly and proximately led to the damages suffered by Plaintiffs in an amount to be determined at trial, for which Defendants CMS, the Board, and PlaySpanish are jointly and severally liable.

SEVENTH CAUSE OF ACTION
[PUNITIVE DAMAGES – Mata and PlaySpanish]

103. The preceding paragraphs are realleged and incorporated herein as if fully set forth.

104. Mata and PlaySpanish's actions as alleged hereinabove constitute willful and wanton conduct, as set forth in N.C.G.S. §1D.

105. Pursuant to N.C.G.S. § 1D, Plaintiffs are entitled to recover punitive damages from Mata and PlaySpanish, jointly and severally, in an amount to be determined by a jury, in an amount to be determined at trial.

PRAYER FOR RELIEF

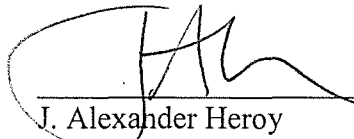
WHEREFORE, Plaintiffs pray for the following relief:

- 1. Award Plaintiffs damages against Defendants Mata and PlaySpanish, jointly and severally, in an amount to be proven at trial, for the physical and sexual assault and battery of Plaintiff [REDACTED];
- 2. Award Plaintiffs damages against all Defendants, jointly and severally, for their negligent and intentional infliction of emotional distress, negligence and gross negligence;
- 3. Award Plaintiffs damages against Defendants CMS, the Board, and PlaySpanish, jointly and severally, for their premises liability;
- 4. Grant Plaintiffs punitive damages against Mata and PlaySpanish, jointly and severally, for their malicious, and willful and wanton conduct, pursuant to N.C. Gen. Stat. §§ 1D-1, *et seq*;
- 5. That Plaintiffs have and recover their attorneys' fees to the fullest extent allowed by law;
- 6. Tax the costs of this action against Defendants; and

7. Grant Plaintiffs any other remedy which this Court deems just and equitable under the circumstances.

This the 20th day of August, 2019.

JAMES, McELROY & DIEHL, P.A.

A handwritten signature in black ink, appearing to read 'J. Alexander Heroy', is written over a horizontal line.

J. Alexander Heroy

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